

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare – Vizianagaram District – Revision Petition filed Under Section 6 of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959, by Sri Gundla Ganapathi S/o Late Krishna Murthy R/o Gummalakshmipuram against the orders of the Agent to Government, Vizianagaram in ALTR 3/2000 dated:26-7-2000.- Dismissed-Orders_Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms.No. 214

Dated:20-11-2008.

Read the following:

1. From Sri V.S.R. Murthy, Counsel for the petitioner Revision Petition dt:9-10-2000.
2. Government Memo No.16072/LTR2/2000 dt:19-10-2000.
3. From the Collector, Vizianagaram R.C No.3755/2000 dt:20-2-2001.
4. Government Memo No:16072/LTR2/2000 dt:22-6-2001, 3-4-2007 and 8-6-2007.
5. Telegram No.16072/LTR2/2000 dt:21-3-2007 and 24-3-2007.

ORDER:

In the reference 1st read above Sri Gundla Ganapathi S/o Late Krishna Murthy filed a Revision Petition before the Government against the orders of the Agent to Government in ALTR 3/2000 dated:26-7-2000 in respect of Lands admeasuring Acres 0.05 in Sy.No.43/1 in Elwinpeta (V), Gummalakshmipuram (M), Vizianagaram. The main grounds of the appellant in the Revision Petition among others are:-

- i. He purchased house constructed in 5 cents of land situated in Sy.No.43/1 at Elwinpeta (V) Gummalakshmipuram (M) by investing his hard earnings and he has no other building except the building in question.
- ii. He purchased the same with bonafide impression from non-tribals. He is paying the tax regularly in Panchayat.
- iii. The 1st respondent ought to have seen that the transfer in favour of the petitioner in respect of the house property is not null and void.
- iv. The respondents ought to have seen that the alleged assigning in the year 1977 is not at all correct.

2. The case was initiated on a report filed by Special Deputy Tahsildar (TW), Elwinpeta that Sri Gundla Ganapathy purchased the slabbed house from Smt. Peddina Seetharathnam W/o Prasad for a valuable consideration on an unregistered document dt:6-1-1996. In this case both the Vendor and Vendee are Non-Tribes. The Deputy Collector (TW), Elwinpeta held that the sale transaction between Smt. Peddina Seetharathnam and the Gundla Ganapathi in a scheduled area is null and void as both are non-tribals. Hence the Dy. Collector (TW), Elwinpet ordered for ejecting Sri Gundla Ganapathi from Government land Under Section 3 (2) (a) of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 and assign to eligible tribals vide O.P.No.1/96 dt:25-11-1999. Aggrieved by the order of the Special Deputy Collector (TW), Sri Gundla Ganapathi had filed an appeal before the Additional Agent to Government. The Agent to Government & Dist. Collector Vizianagaram after perusal of the records held that appellant failed to adduce any evidence that as the appellant filed to adduce any evidence to the effect that the scheduled property was acquired by him through a member not belonging to a scheduled tribe prior to 1917, a presumption is drawn that a transfer has been made to Sri Gundla Ganapathi by a member Scheduled tribe which is null and void under section 3 (1)(a) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, hence upheld the orders of the Dy. Collector (TW), Elwinpeta and dismissed the case in ALTR:3/2000 dt:26-7-2000. As the transfer of immovable property took place between two non-tribals after Regulation 1/70 came into force and dismissed the appeal in ALTR No.3/2000, dt:26-7-2000. Aggrieved by the orders of the Agent to Government the petitioner filed this Revision Petition before the Government.

3. In the reference 2nd read above, the Agent to Government, Elwinpeta was requested to furnish parawise remarks and case records and the same were furnished in the reference 3rd read above. After examination of the case records, notices were issued to

the concerned to attend the hearing of the Revision Petition dt:24-3-2007, 9-4-2007 and finally on 16-6-2007 through the reference 4th read above. Both the petitioner and his counsel were absent every time.

4. Government after careful examination of the material evidence on record it is established that :

- a. Sri Gundla Ganapathi S/o Late Krishna Murthy R/o Gummalakshmipuram appeared before the Special Deputy Collector (TW), Elwinpeta on 2-7-1996 in O.P No.1/96 and disposed that he purchased the slabbed house from Smt. Peddina Seetharathnam W/o Prasad (non-tribe) for an amount of Rs.84,000 on an unregistered sale deed dt:6-1-1996 and did not produce any documentary evidence to establish his claim over the land.
- b. He himself agreed that he purchased the land from another non-tribal on an unregistered sale deed dt:6-1-1996 i.e. after Regulation 1/70 came into force.
- c. The contention that the transfer of house property in favour of the petitioner is not null and void and the alleged assignment in the year 1977 is not at all correct.
- d. The land was originally assigned to Smt. Bothada Mutyalu W/o Rama Rao tribal by the then Tahsildar, Kurupam in the year 1977 and it was sold to Smt. Peddina Seetharathnam W/o Prasad (non-tribe) and Smt. Seetharathnam in turn sold to Gundla Ganapathi i.e. Revision Petitioner.
- e. According to Section 3 (1) (a) of the Regulation 1 of 1959 as amended by Regulation 1/70, any transfer of immovable property situated in the Agency tracts by a person, whether or not such person is a member of Scheduled Tribe, shall be absolutely null and void unless such transfer is made in favour of Scheduled Tribes. In this instant case the petitioner being a non-tribal purchased the scheduled land from another non-tribal which is contrary to the provision of section 3 (1) (a) of the Regulation. Moreover, the assignee Smt. Bothada Mutyalu violated conditions of the D form patta granted to her and Land Transfer Regulations by colluding with non-tribals.

5. Government after careful examination of the case records, hereby upheld the orders of the Agent to Government, Vizianagaram in ALTR 3/2000, dt:26-7-2000 and accordingly dismiss the Revision Petition.

6. The Collector Vizianagaram / Agent to Government, Elwinpet is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
Prl. Secretary to Government.

To

The Collector, Vizianagaram.

(With RPAD of the following records)

1. O.P No.1/96 dt:25-11-1999 containing 76 pages only.
2. ALTR 3/2000 containing pages CF-56, NF-8.

The Agent to Government & PO ITDA, Vizianagaram.

The Special Deputy Tahasildar, Elwinpeta, Vizianagaram.

Sri V.S.R. Murthy, Advocate,

D.No.3-4-526/20, Street No.10, Opp: Bank of Baroda,
Barkatpura, Hyderabad.

Sri Gundla Ganapathi S/o Late Krishnamurthy

R/o Gummalakshmipuram, Vizianagaram.

Copy to P.S to M (TW&RAID).

SF / SC

// FORWARDED BY ORDER //

SECTION OFFICER